

SEALED**UNITED STATES DISTRICT COURT**for the
District of Nebraska

United States of America

v.

Nestor Gomez-Orta and Mellenzie A. Utterback

Case No. 8:22MJ209

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 25, 2022 in the county of Dawson in the
District of Nebraska, the defendant(s) violated:*Code Section**Offense Description*

21 U.S.C. §§ 841(a)(1) & (b)(1)(A)

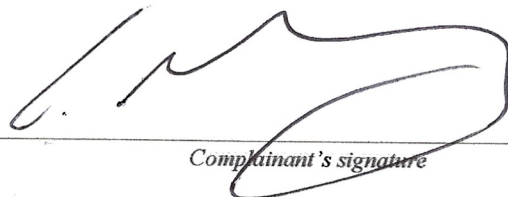
Possession with intent to distribute a controlled substance

18 U.S.C. § 922(g)(1) & 924(a)(2)

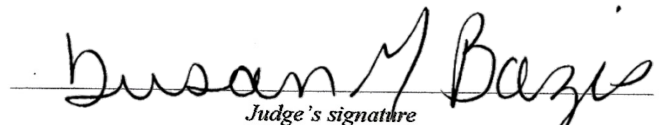
Felon in Possession of Ammunition (Mellenzie A. Utterback only)

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet. 375
Complainant's signature

Chad T. Phaby, DEA Special Agent

Printed name and title☐ Sworn to before me and signed in my presence.☒ Sworn to before me by telephone or other reliable
electronic means.Date: 4-27-22City and state: Omaha, Nebraska
Judge's signature

Susan M. Bazis, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Affidavit for Criminal Complaint and Arrest Warrant

I, Chad Phaby, being duly sworn on oath, depose and state the following:

1. I am an Investigator of the Nebraska State Patrol, and have been employed as an officer with the Nebraska State Patrol since May of 2004. I was employed with the Nevada Highway Patrol from August of 2003 to May of 2004. I began my career in Law Enforcement in March of 1998 with the Nebraska State Patrol before going to the Nevada Highway Patrol. I have completed the Nebraska State Patrol training academy and Nevada Highway Patrol academy and am a certified Law Enforcement Officer. I have attended the Nebraska LEIN School, focusing on criminal actions and behaviors regarding a multitude of crimes. I am also a 2015 graduate of the DEA basic Narcotics Investigator School. I am currently assigned to the CODE Drug Task Force in North Platte, Nebraska. During my career with the Nebraska State Patrol, I have had the opportunity to conduct, coordinate and/or participate in investigations relating to all types of crimes, to include but not limited to: 21 U.S.C. § 846 (conspiracy to distribute a controlled substance) and 21 U.S.C. § 841(a)(1) (distribution of a controlled substance). I have training and experience in the crime of possession and distribution of illegal substances.

2. Through personal participation and information from other law enforcement personnel, I am familiar with this investigation. On the basis of this familiarity, I allege that on or about April 25, 2022, in the District of Nebraska, defendants Nestor Gomez-Orta (“Gomez-Orta”) and Mellenzie Utterback (“Utterback”) violated federal law, to wit: 21 U.S.C. §§ U.S.C

841(a)(1) and (b)(1)(A) (possession with the intent to distribute 500 grams or more of a mixture or substance containing methamphetamine). Affiant also has probable cause that Utterback violated 18 U.S.C. § 922(g)(1) (felon in possession of ammunition).

3. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that Gomez-Orta and Utterback committed the violations of federal law described above.

4. On Wednesday, April 20, 2022, I was advised of a suspicious package being sent from California to Person 1 at 408 Rimpley Lane, Lexington, Nebraska 68850 (“the Residence”) (affiant is aware of the name listed for Person 1, but for purposes of this affidavit, lists it as Person 1). I was previously aware that Gomez-Orta and Utterback reside at the Residence. The package was intercepted by a United States Postal Inspector on Friday, April 22, 2022. The Postal Inspector requested the assistance of a K-9 which indicated to the odor of illicit drugs on the package. A federal search warrant was obtained by the postal inspector and when the search warrant was executed the package was opened and approximately 3.9 pounds of methamphetamine was discovered inside the package. Postal Inspector Derek Ryan of the United State Postal Service conducted a presumptive test on the crystal substance which tested positive for methamphetamine.

5. On Friday, April 22, 2022, I obtained an anticipatory search warrant for the Residence. On Monday, April 25, 2022, a Postal Inspector from the U.S. Postal Service made a controlled delivery of two packages to Gomez-Orta at the Residence. Law enforcement believed that there was supposed to be two packages sent to the Residence, but law enforcement became

aware that one of them had taken longer in the postal service routing system. Law enforcement later recovered the second package and this second package was used in the controlled delivery. Law enforcement did not open the second package prior to the controlled delivery. Law enforcement therefore delivered two packages during the controlled delivery. Surveillance teams in the area observed as Gomez-Orta took both packages inside the Residence. One of the two packages delivered was previously the package opened with the federal search warrant by Postal Inspector Derek Ryan at which time he discovered the methamphetamine. Postal Inspector Ryan along with myself assisting placed approximately 68 grams of methamphetamine back into the original package along with salt rock to make up for the weight difference prior to the delivery. The Nebraska State Patrol SWAT Team executed the search warrant at the Residence. There was a total of five individuals and two juveniles in the Residence. Utterback and Gomez-Orta were located in the North bedroom of the residence where affiant believes they reside (basis described below) within the Residence and were arrested at that time on state charges for possessing the two packages which in total contained approximately 5.9 pounds of material, which includes the approximately 68 grams of methamphetamine that was placed back into the first package and the approximately 900 grams of methamphetamine in the second package that was delivered but not opened prior to delivery.

6. During a search of the Residence both postal packages were located in the north bedroom of the trailer where Gomez and Utterback reside in the trailer. Several items of paperwork with the name Nestor Gomez-Orta were located in the bedroom along with a picture of Utterback attached to the mirror inside the bedroom. The Nebraska State Patrol SWAT team located Utterback within the room as she was taken into custody and several female clothing items to include purses were observed in the room. Officers also located approximately 1,000

small blue pills weighing approximately 9 ounces in a safe which based on their appearance and based on affiant's training and experience, affiant believes to be believed to be fentanyl. Also located in the safe was a baggie with crystal substance believed to be methamphetamine weighing approximately 27 grams. Located throughout the room was several baggies of crystal substance believed to be methamphetamine weighing approximately 18 grams. There was also a large amount of U.S. Currency that was seized (\$3,873). Numerous paraphernalia items to include pipes, bongs, rolling papers, phones, scales, computers, marijuana grinders, less than 1 ounce of marijuana, a small amount of methamphetamine, and packaging material were seized in Gomez-Orta and Utterback's room within the Residence.

7. Approximately eleven 12 gauge shotgun shells were located in a bandolier, five-22 long rifle rounds, one 9 mm round, and one 9mm round were located in a safe within the north bedroom.

8. The crystal substance in the second package which contained the approximately 900 grams was field tested on the TruNarc device which was positive for methamphetamine.

9. On February 23, 2017, Utterback was convicted in the Adams County District Court of Nebraska for a Class 4 Felony for Possession of a Controlled Substance. On January 27, 2021, Utterback was convicted in the Hall County District court of Nebraska for a Class 4 Felony for Possession of Controlled Substance.

10. Based on my training and experience in the use and distribution of controlled substances I believe that the amount of methamphetamine delivered is considered to be distribution amounts.

11. Based on my training and experience in the use and distribution of controlled substances I believe that approximately 9 ounces or approximately 1,000 suspected Fentanyl tablets is considered to be distribution amounts.


SUMMARY

12. Based upon the foregoing, your affiant believes that there is probable cause to believe that Gomez-Orta and Utterback violated 21 U.S.C. §§ U.S.C 841(a)(1) and (b)(1)(A) and that Utterback violated 18 U.S.C. § 922(g)(1).

REQUEST FOR SEALING

13. I further request that the Court order that the criminal complaint, arrest warrant, and all papers in support of this criminal complaint be sealed until both Gomez-Orta and Utterback are taken into federal custody. Affiant believes both to currently be in custody pending state charges relating to the conduct described-above. Affiant requests that this criminal complaint and arrest warrant, and all papers in support of the criminal complaint be sealed in case either is released from state custody prior to the execution of instant documents. These documents discuss an ongoing criminal investigation in which all of the information is not known to the public nor to the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation, including by giving targets an opportunity to destroy or tamper with evidence, change patterns of behavior, notify confederates, and flee from prosecution.

Respectfully submitted,



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Investigator Chad T Phaby, #375
Nebraska State Patrol

Subscribed and sworn to before me via
reliable electronic means on April 27, 2022



SUSAN M. BAZIS
UNITED STATES MAGISTRATE JUDGE